

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	

Reply Comments of the Montana Telecommunications Association

I. Background

The Montana Telecommunications Association (MTA) represents both commercial and cooperative independent local exchange companies (LECs) and other telecommunications service providers in Montana. These companies provide a full array of telecommunications services, including wireline and wireless services, Internet access and long distance services to Montana's rural communities. Montana's ILECs average fewer than three access lines per mile.

One hundred percent of Montana's rural LEC subscribers have dial-up access to the Internet, and over 125 Montana communities either have or soon will have broadband access to the Internet with DSL-capable loops. The ability of these companies to invest in high-quality networks and telecommunications services for Montana's consumers is attributable at least in part to the support of universal service mechanisms provided under federal statute.

In short, universal service is critical to maintaining investment in and access to quality telecommunications services in Montana. It is a system that works precisely as Congress intended, providing access to comparable telecommunications services at comparable rates to all Americans, regardless of where they live.

MTA believes that the FCC has an opportunity in this proceeding to define universal service in terms of what Americans expect and deserve (and in most

cases receive) from their local telecommunications carriers. Consumers today rely on telecommunications as never before. They have come to expect a basic level of quality in their telecommunications services that is superior to the Commission's current minimum standards for universal service. MTA encourages the FCC to raise its standards to a level that matches Americans' expectations.

II. Evolving Level of Service Justifies Raising Bandwidth Requirement

Universal service is an evolving level of telecommunications services that the Commission shall establish periodically...taking into account advances in telecommunications and information technologies and services. 47 U.S.C. § 254(c)(1)

MTA supports the comments of the Montana Universal Service Task Force (MUST) that universal service should be set "at the highest possible level that is consistent with the service that has been deployed in most of rural America."¹ MTA finds it hard to understand why the Commission would settle for less by condoning a lowest-common-denominator approach to setting universal service standards.

As MUST recommends, voice grade access should support, to the maximum possible extent, unlimited local usage at the exchange level, with a bandwidth requirement of 3,200 Hertz (300 to 3,500 Hertz).²

MTA also supports the comments of the Conference of Catholic Bishops, the Alliance of Public Technology, National Telephone Cooperative Association; TDS; and Valor, who generally endorse exploring use of support for deployment of advanced (i.e., broadband) services. When policymakers across the nation are seeking ways to encourage investment in advanced telecommunications

¹ *In the Matter of Federal-State Joint Board on Universal Service*. CC Docket No. 96-45. "Comments of the Montana Universal Service Task Force (MUST). P.1.

² MTA recognizes that 3,200 Hertz may be problematic in a minority of cases involving extremely rural exchanges, with extremely long loops. The FCC therefore should consider a compliance "allowance" that would provide for limited exceptions to the 3,200 Hertz requirement.

services and technologies, it makes no sense for the Federal Communications Commission to settle for a definition of universal service with a floor that barely supports 1980's vintage communications technology.

In this regard, Valor also recommends that the Commission explore ways to promote high-speed access in areas where deployment may not otherwise occur.

MTA believes the evidence is incontrovertible that universal service has been an extremely effective and efficient means of delivering access to quality telecommunications to rural America. Congress and the FCC have collaborated in using the universal service model to bring Internet access to our nation's schools and libraries. MTA suggests that the same mechanism be explored as an effective means of deploying advanced services to meet America's increasingly sophisticated telecommunications needs and expectations.

III. Equal Access Meets the Market Acceptance Criterion of §254

[The] Commission, in establishing the definition of the services that are supported by Federal universal service support mechanisms shall consider the extent to which such telecommunications services...have through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers [and] are being deployed in public telecommunications networks by telecommunications carriers [and] are consistent with the public interest..." 47 U.S.C. § 254(c)(1)(B), (C) and (D).

MTA supports the comments of MUST, GVNW, NTCA, and OPASTCO, who recommend that universal service should include equal access to the long distance carrier of consumers' choosing. Equal access not only is subscribed to by a substantial majority of residential consumers, it's required and expected by consumers as a fundamental and integral part of residential telephone service. As indicated above, not including this basic element of telephone service as a core universal service effectively dumbs down the standard, setting a floor below that which customers expect and deserve. It is hard for MTA to comprehend why

the FCC would want to set a floor that endorses, and indeed effectively promotes, a diminution of quality and service for America's telecommunications infrastructure.

Moreover, equal access is particularly important in rural areas, where local calling areas are very limited. It is not uncommon for consumers in rural Montana to be able to reach often fewer than a few hundred subscribers on a local call. Being able to choose long distance carriers becomes more important to consumers in such circumstances.

IV. State determinations

MTA supports the comments of MUST that "states are free to impose their own technical and service quality standards as part of the definition of universal service and as prerequisites to eligibility for universal service funding."³ There should be no Federal proscription on states' ability to determine universal service factors beyond, or complimentary to, federal core services. In a related matter, MTA notes that the New York Department of Public Services also endorses deferring to individual state determinations such as issues soft dial tone, for example.

V. Cost Issues

Providing a majority of a rural LEC's exchange customers with voice grade access at 3,200 Hertz would not add substantially to the cost of universal service support. After all, rural independent LECs already provide such service levels to the vast majority of their consumers in Montana, and MTA surmises, most rural Americans served by independent LECs receive similar service levels.

MTA notes that the cost of not raising voice grade access standards or providing for a higher level of core supported services invites its own liabilities.

³ *In the Matter of Federal-State Joint Board on Universal Service*. CC Docket No. 96-45. "Comments of the Montana Universal Service Task Force (MUST). P.1.

That is, by maintaining a lower standard for universal service, competitive ETCs (CETCs) may qualify for universal support at the incumbent's support level (which is established by a cost structure designed to support a higher level of service and investment.) In this case, the CETC is over-paid for providing inferior service, which merely meets the minimum definition of supported service. Meanwhile, the incumbent likely would be forced to "meet" the competition with a lower level of service and investment, to the detriment of its consumers. Even so, the CETC's margins presumably would be greater than the incumbent's, assuming the CETC's service and investment costs remain lower than those of the incumbent, which still must recover investment from an embedded cost structure. Rural consumers could have an option of two providers offering service at a lower quality than was offered prior to the CETC's entry, or only one provider offering service at a lower quality than was offered prior to the CETC's entry, if the incumbent cannot reduce its level of investment and service quality fast enough to meet the CETC's lower standards.

By maintaining a lowest-common-denominator approach to the definition of supported services, the current definition effectively invites additional ETCs to qualify for universal service support at a service and quality standard that most Americans find unacceptable, or at least inferior to what they have come to expect from "basic" service.

The issue in this proceeding, however, is not whether competitors may or may not offer beneficial consumer options, but whether *universal service* should be manipulated to subsidize CETCs at a level that is inferior to what Americans expect from incumbent carriers.⁴

⁴ On a related matter, MTA supports TDS' comments urging the Commission to establish and enforce effective §254(e) accountability for CETCs receiving ILEC-based support. CETCs that abuse support mechanisms for short term gains can threaten the viability of universal service for all ETCs providing carrier of last resort service.

VI. Background

In discussing universal service policy in general, and in reviewing the initial comments in this proceeding, MTA believes it is instructive to cite some recent reports that help illustrate the practical and philosophical underpinnings of universal service. Often lost in the rhetoric is the fact that universal service is instrumental in maintaining investment in rural telecommunications infrastructure in America.

MTA commends a review of the Rural Task Force white papers and recommendation to the Joint Board on Universal Service. (See the Rural Task Force web site at www.wutc.wa.gov/rtf.) White Paper 2 in particular elaborates on the differences between rural and non-rural carriers, illustrating among other things the relative importance of universal service to high-cost rural carriers. For example, rural carriers serve 70 percent of the modeled serving areas with fewer than 5 lines per carrier serving area. The customer base of rural carriers generally includes fewer high-volume users. Plant specific and operations expenses for rural carriers tend to be substantially higher than for non-rural carriers.⁵

A recent study by the National Exchange Carriers Association (NECA), discusses the cost of broadband transport for rural ISPs. This “Middle Mile Cost Study” further illustrates the additional costs of providing advanced services to rural consumers in America. Among other things, the study reports that lack of market size and long distances to Internet backbone nodes make high-speed Internet services uneconomic in many rural areas. NECA’s “sobering conclusion is that high-speed Internet service may not be sustainable in many rural areas based on pure economics.”⁶

⁵ In the Matter of Federal State Joint Board on Universal Service. CC Docket No. 96-45. Rural Task Force Recommendation to the Federal-State Joint Board on Universal Service. Adopted September 22, 2000. pp. 11-14.

⁶ See NECA’s Middle Mile Cost Study on NECA’s web site at www.neca.org/midmile.htm.

In another report issued in 2000, NECA found that the cost of deploying “last mile” broadband capabilities within 18Kft of a central office is \$494 per access line (\$809 million nationally). The cost of deploying broadband within 18 Kft of a digital line carrier (remote hub) facility is \$4,121/line (\$4.505 billion nationally); and beyond that, it would cost \$9,328/line (\$5.606 billion).⁷

Further, an article in the OPASTCO Advocate, 9/01, by former FCC Commissioner Harold Furchtgott-Roth notes that universal service spending in the last five years has grown most in the Nation’s largest states. “Where once payments to rural carriers accounted for more than 75 percent of all universal [service] programs, today those payments account for less than 30 percent.” States with the largest increase in universal service spending (1995-2000) include California (\$709 million); New York (\$305 million); Texas (\$170 million); Mississippi (\$142 Million); and Illinois (\$109 million). “The increase in spending for all states west of the Mississippi *combined* was substantially less than the increased spending in California alone.”⁸

VII. Conclusion

[The] Commission shall base policies for the preservation and advancement of universal service on the following principles: (1) Quality and Rates...(2) Access to Advanced Services...in all regions of the Nation (3) Access in Rural and High Cost Areas...to telecommunications and information services...that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.” 47 U.S.C. § 254(b)(1), (2) and (3).

The Statute is unambiguous. The Commission “shall” use quality, comparability, and universal access to advanced services at comparable rates as its guiding principles in determining universal service policy. Comments urging the Commission to consider other factors are attempting to divert the Commission from a strict reading of Congressional intent in Section 254 of the

⁷ See NECA’s Middle Mile Cost Study on NECA’s web site at www.neca.org/broadban.asp.

⁸ Harold Furchtgott-Roth. “A retrospective on Five Years of Universal Service.” OPASTCO Advocate. September, 2001.

Telecommunications Act of 1996. Some comments (e.g., CTIA, Verizon Wireless, *inter alia*) concede they cannot meet a level of service quality that Americans expect from their core telephone service, so they chant the mantra of competition.

But the Act provides for both competition and universal service, not either or. Telecommunications service providers are free to compete for customers anywhere in the nation. But if a competitor desires to qualify as an eligible telecommunications carrier (ETC), it should be willing and able to provide a basic level of universal service. The Commission *in this matter* should not fall prey to those who advocate a lower level of service in the name of competition. It should regard Section 254 as an opportunity to evolve the level of service available to American telecommunications consumers.

MTA therefore recommends that the FCC abandon a least-common-denominator approach to defining universal service. ILECs have invested in networks to provide a level of quality and service that consumers deserve and expect. The FCC should settle for nothing less.

The Commission should adopt commonly held standards and service levels, including providing equal access as a core supported service and requiring a voice grade access bandwidth of 3,200 Hertz for a substantial majority of subscribers.

The question is whether universal service should be used as a means of creating competition or whether it is a policy to promote access to quality services by all Americans.

Respectfully Submitted,

/s/

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